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09/888,797

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H. Brock Kolls

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EXAMINER

MILEF, ELDA G

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/888,797	<b>Applicant(s)</b> KOLLS, H. BROCK	
	<b>Examiner</b> Elda Milef	<b>Art Unit</b> 3692	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 04 February 2008.

2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-35 is/are pending in the application.

    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-35 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413)  
    Paper No(s)/Mail Date \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **Status of the Claims**

1. This office action is in response to the amendments submitted by the applicants on 2/4/2008.

- Claim 36 is cancelled.
- Claims 1-35 are amended.
- Claims 1-35 are pending in the application.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 1, although the examiner found support in the specification for "In a second example the local authorization flag may be set for the second pass. In this case the system 500 will first try to remotely authorize the card. If the remote processing bureau is unavailable or unable to authorize the card then on the second pass the local authorization routine will be invoked, the examiner could not find support in the specification for "remotely authorize the cashless payment transaction exceeding a threshold number."

Claims 2-17 are rejected because of their dependency to the rejected claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teicher (U.S. Patent No. 5,728,999) in view of Levasseur (U.S. Patent No. 6,427,912).

**Re claim 1, 5, 6:** Teicher discloses:

a) obtaining at an audit-credit-interactive system a plurality of card identification data-("The card payment unit 103 comprises a card interface 1012...customer interface 1013...for allowing the customer to add information, such as a personal identification number..."-see col. 13 lines 5-41;

b, c, d) performing a first attempt at a remote transaction authorization for the cashless payment transaction; selectively performing either another attempt at the remote transaction authorization for the cashless payment transaction; or a local transaction authorization test for the cashless payment transaction responsive to a number of previously unsuccessful attempts to remotely authorize the cashless payment transaction; and authorizing a vending transaction responsive to the local transaction authorization test- ("the card payment unit operates with a combo smart card and includes a transaction selector which selects whether to charge the customer from the electronic purse [local transaction authorization] or his remote bank or credit account via the electronic checkbook, [remote transaction authorization] or whether to replenish the electronic purse via the electronic checkbook before charging the electronic purse..."-see col. 3 in particular, lines 10-15; col. 4 lines 13-18, and line 66 to col. 5 line 6; and ("Alternatively, an off-line validity check may be allowed...In 1047 \$SUM is compared to

\$MINCT to determine whether a checkbook payment is feasible. If the answer is positive then...\$SUM is compared with \$BALANCE to determine whether a purse transaction is feasible as well...If the answer in 1047 is negative, i.e. the payment has been found unfeasible for checkbook payment [remote authorization], it is checked for purse payment [local authorization] feasibility as indicated in block 1051.")-see col. 14 line 20 to col. 15.

Also, see figs. 1,10A-11C and related text.

Teicher discloses a system capable of determining when to locally or remotely authorize a transaction based on variables such as payment sum, balance in the electronic purse, and the spending limit allowed in the electronic checkbook. Teicher further teaches if the payment has been found to be unfeasible for checkbook payment [remote authorization], it is checked if the purse payment is feasible [local authorization] -see col. 15 lines 1-7. Teicher does not specifically disclose performing local authorization test responsive to a number of unsuccessful attempts at remote authorization exceeding a threshold number. Levasseur however, teaches a system and method operable to use a credit card to complete vending transactions. Levasseur further teaches ("The system may also be constructed or programmed to limit the number of transactions that are authorized for a given credit card at a given point of sale location during specified

time periods.")-see col. 2 in particular lines 55-59; col. 5 lines 43-64. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Teicher to specifically include limiting the number of remote authorization attempts e.g. credit card authorization attempts, as taught by Levasseur in order to protect the merchant and customer against fraudulent use of the system.

**Re claims 2, 15:** Teicher discloses:

performing a card validity test on said plurality of card identification data -see col.3, lines 25-56;

Teicher does not specifically disclose performing a card usage frequency limit test; performing a test of said plurality of card identification data against a plurality of local databases and updating said plurality of local databases . Levasseur however, teaches ("The system may also be so constructed or programmed to be operable to limit the number of transactions...limit the number of authorized transactions...")-see col. 2 lines 55-67. Levasseur further teaches ("the system can check a credit card account number against a listing of previously approved card numbers to identify 'preferred' customers...programming that compares a credit card account number to an off-line list of 'hot' card numbers before allowing a

transaction. The system can also provide...for updating of a 'hot' card list...")-see col. 3 lines 6-17. Further it is obvious that the "listings" referred to by Levasseur is a database because the list is accessed by the system and stored in computer memory-see Fig.1 (41). Therefore, it is obvious that the electronic "list" is a database. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Teicher to specifically include limiting the number of transactions and checking a credit card account number against a listing of previously approved card numbers as taught by Levasseur in order to protect the merchant and customer against fraudulent use of the system.

**Re claims 3,4:** Teicher discloses:

determining a current authorization attempt, wherein said current authorization attempt is a current iteration of an authorization routine;

comparing said current authorization attempt to a local authorization routine entry counter; attempting the remote transaction authorization if the current authorization attempt does not equal the local authorization routine entry counter;

wherein comparing said current authorization attempt to a local authorization routine entry counter further comprises: setting a local authorization flag to invoke entry into said



local authorization routine when said current authorization attempt is equal to said local authorization routine entry counter; or initiating communication with a remote location to obtain authorization for said cashless payment transaction.

The applicant discloses the following on pg. 79 of the specification: "In an exemplary embodiment system 500 can be programmed to locally authorize a card based in part on an iterative process, which allows for the local authorization routine to be invoked, at a minimum, on the first pass and subsequently at any successive pass up to the last pass...In a first example the local authorization can be invoked on the first pass...In a second example the local authorization flag may be set for the second pass." Teicher discloses ("The card payment unit 103 also comprises a transaction selector 1015 which selects automatically the proper transaction sequence")- see col. 13 lines 29-41. Furthermore, Teicher discloses remote authorization and local authorization performed dependant on variables such as payment sum, balance in electronic purse, spending limit allowed in electronic checkbook. It is obvious from the system of Teicher that the transaction selector determines the proper transaction sequence i.e., local authorization requested before or after remote authorization

[first or second pass]. -see col. 13 lines 29-34; cols. 13-15; Figs. 10A-B. Teicher do not explicitly disclose using a counter, however, official notice is taken that it is old and well known in the art of computer programming that counters are frequently used. For example in object oriented computer programming languages such as C++, and Java, the use of counters is commonplace in keeping track of iterations in a "for" loop. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include keeping track of iterations using a counter as is old and well known in the art of computer programming in order to provide the user with an effective way to control the execution of the program such as in the use of loops.

**Re claim 7:** Teicher discloses:

wherein said plurality of card identification data includes data from a smart card.-see col. 2 line 63-col. 3 line 15.

**Re claim 8:** Teicher does not specifically disclose determining if said card identification data is expired based on date. Levasseur however, teaches determining if the credit card presented at the card reader is currently valid, i.e., unexpired...-see col. 2 lines 41-67. It would have been obvious to one having ordinary skill in the art at the time the invention

was made to modify Teicher to specifically disclose determining if a credit is expired as taught by Levasseur in order to avoid the risk of not receiving payment.

**Re claim 9:** Teicher discloses performing a remote authorization test includes communicating with a remote location to obtain authorization approval for transaction.-see col. 2 lines 53-63.

**Re claims 10, 11:** Teicher discloses communicating with a remote location to obtain an authorization approval for said cashless payment transaction ("An electronic checkbook-This is a credit card...identifying a remote credit account and authorizing transactions therefrom")-see col. 2 line 54-col. 3, Figs. 10A-11C and related text. Teicher does not specifically disclose wherein determining a card usage frequency of said plurality of card identification data, wherein said card usage frequency is the number of times said plurality of card identification data has been presented for authorization in a predetermined time period; and comparing said card usage frequency to a card usage frequency limit. Levasseur however, discloses a system operable to limit the number of transactions that are authorized for a given credit card by comparing the number of transactions to a limitation number-see col. 2 line 55-col. 3 line 5. It would have been obvious to one having ordinary skill in the art at the

time the invention was made to modify Teicher to specifically disclose limiting the number of transactions requiring authorization in order to protect the consumer and merchant from the fraudulent use of a credit card.

**Re claim 12:** Teicher discloses wherein a plurality of local databases are resident at said audit-credit interactive system-see Fig. 11A (1119) and related text.

**Re claims 13,14:** Teicher disclose wherein performing of the test of said plurality of card identification data against said plurality of local databases comprises determining if said plurality of card identification data is include in plurality of local databases, including a positive-database. -see cols. 14-16; figs. 11A-C.

**Re claim 16:** Teicher discloses procedures for accounting and reporting local and remote authorization requests including adding said card identification data to said positive-database when said cashless payment transaction authorization request is approved-see col. 16 lines 32-39; also col. 2 line 53-col. 5, cols. 14-16, and Figs. 10A-11C and related text. Teicher does not disclose adding said card identification data to said negative-database when said cashless payment transaction authorization request is denied. Levasseur however, teaches

storage of information regarding invalid card in the invalid card listing. -see col. 6 lines 44-48. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Teicher to specifically disclose storage of information regarding invalid card data in the invalid card listing as taught by Levasseur in order to provide the system with means for validating a card used in a transaction.

**Claim 17** has similar limitations found in claims 1 and 3 above, and therefore is rejected using the same art and rationale.

**Claim 18** has similar limitations found in claim 1 above and is therefore rejected using the same art and rationale. Furthermore, the applicant discloses the following on pg. 79 of the specification: "In an exemplary embodiment system 500 can be programmed to locally authorize a card based in part on an iterative process, which allows for the local authorization routine to be invoked, at a minimum, on the first pass and subsequently at any successive pass up to the last pass...In a first example the local authorization can be invoked on the first pass...In a second example the local authorization flag may be set for the second pass." Teicher discloses ("The card

payment unit 103 also comprises a transaction selector 1015 which selects automatically the proper transaction sequence")- see col. 13 lines 29-41. Furthermore, Teicher discloses remote authorization and local authorization performed dependant on variables such as payment sum, balance in electronic purse, spending limit allowed in electronic checkbook. It is obvious from the system of Teicher that the transaction selector determines the proper transaction sequence i.e., local authorization requested before or after remote authorization [first or second pass]. -see col. 13 lines 29-34; Fig. 10B (1050); and setting a local authorization flag ("switch is provided to direct the transaction either to the checkbook payment unit 1019 as indicated by block 1048 or the purse payment unit 1017 as indicated by block 1052. The switch setting to C or P position...")-see col. 14 line 64 to col. 15 line 4.

**Re claim 19:** Teicher discloses:

wherein said plurality of card identification data includes data from a smart card.-see col. 2 line 63-col. 3 line 15.

**Re claim 23:** Teicher discloses wherein performing at said audit-credit-interactive system a local transaction

authorization test of said plurality of card identification data includes communicating with said remote location to obtain an authorization approval for said cashless payment transaction. -see col. 2 line 49 to col. 3 line 28; cols. 12-15.

**Claims 20,21,25** have similar limitations found in claims 3,4,12 above, and therefore are rejected by the same art and rationale.

**Claims 22,24,26,27,28** have similar limitations found in claims 8,10,13,14,16 above, and therefore are rejected by the same art and rationale.

**Claims 29 and 30** have similar limitations found in claim 17 above, and therefore are rejected by the same art and rationale.

**Re claims 31 & 32:** Teicher discloses:

determining if said cashless payment transaction received an authorization approval from the local transaction authorization test for said plurality of card identification data; communicating with said remote location to obtain a second authorization approval from said remote location-see cols.2-5; 11-18.

**Re claim 33:** Teicher discloses batch processing-see col. 18 lines 12-20.

4. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teicher in view of Levasseur as applied to claim 18 above and further in view of Muftic (US Patent No. 5,850,442).

**Re claim 34:** Teicher and Levasseur do not disclose processing said cashless payment transaction in an international currency of origin. Muftic, however teaches conducting a variety of common electronic business transactions over an extended network and ("In this case, the current value field contains a summation of all certificates, such as that shown in FIG. 1910 converted using conversion values from the nationality stated to a desired currency value.")-see col. 17 lines 4-7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Teicher and Levasseur to include conversion of electronic money into a desired international currency as taught by Muftic in order for the user to gain a better understanding of expenses charged and reflected on the credit card statement.



5. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teicher in view of Levasseur as in claim 23 above and further in view of Boston (US Patent No. 4,812,628).

**Re claim 35:** Teicher and Levasseur does not disclose wherein said remote location is a credit bureau. Boston however, teaches ("The issuer 2- may be a bank or other financial institution. Often, the issuer will collect information from the cardholder to make an evaluation and assign a credit limit to the cardholder...")-see col. 4 lines 55-61 and col. 3 lines 24-31. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Teicher and Levasseur to include the requesting authorization of a transaction at the issuer location (remote location) as taught by Boston in order to reduce the risks associated with the fraudulent use of the credit card or exceeding credit limits.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. PG. Pub. No. 2001/0037291 (Allen, II)-cited for its reference to an electronic payment interface including performing local and remote payment processing.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday -Thursday 8:30 am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571)272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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